

2001 DRAFTING REQUEST

Senate Amendment (SA-SSA1-SB55)

Received: 06/15/2001

Received By: fasttn

Wanted: Soon

Identical to LRB:

For: Senate Democratic Caucus

By/Representing: Keckhaver

This file may be shown to any legislator: NO

Drafter: agary

May Contact:

Addl. Drafters:

Subject: Transportation - highways

Extra Copies: TNF, PJH

Submit via email: NO

Requester's email:

Pre Topic:

SDC:.....Keckhaver - CN7025,

Topic:

Vegetation control along highway rights-of-way

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1	agary 06/17/2001	jdyer 06/18/2001	rschluet 06/18/2001	_____	lrb_docadmin 06/18/2001		

FE Sent For:

<END>

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/1	agary	11 6/18 jld		_____			

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VEGETATION CONTROL ALONG HIGHWAY RIGHTS-OF-WAY

CN7025

This amendment would clarify §86.03, Wis. Stats., to allow the owner of a business, on-premise sign, off-premise sign, directional sign, or nonconforming sign permission to have vegetation trimmed or removed from a highway right-of-way if the following are met:

- a) The business or sign in question cannot be viewed for six uninterrupted seconds by the public while traveling on the highway at the posted speed limit.
- b) The owner of the business and/or sign pays for the cost of the trimming/removal of the vegetation which is blocking the view of the business and/or sign.
- c) The owner of the business and/or sign pays for the purchase and planting of comparable vegetation to be located along the same highway, if the original vegetation was removed. The new planting cannot be located in such a way that the view of another business or sign is obstructed or will be obstructed within the foreseeable future.
- d) The trimming, removal or replanting of the vegetation is done at no cost to the Department of Transportation or any state agency.
- e) The individual(s) who retain property rights to the land on which the sign is located have no objections to the trimming and/or removal of the vegetation.

STATUS: New

DEPARTMENT(S): Department of Transportation

FISCAL IMPACT: None

FUNDING SOURCE(S): N/A

INTRODUCTION: SDC



State of Wisconsin
2001 - 2002 LEGISLATURE

LRBb0806/1

ARG: n:...

soon jld

SDC:.....Keckhaver - CN7025, Vegetation control along highway rights-of-way

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

CAUCUS SENATE AMENDMENT

TO SENATE SUBSTITUTE AMENDMENT 1,

TO 2001 SENATE BILL 55

Note

#. Page 878, line 23: after that line insert:

- 1 At the locations indicated, amend the substitute amendment as follows: ✓
- 2 SECTION ~~2940~~³vg. 86.03 (5m)^X of the statutes is created to read:
- 3 86.03 (5m) TREES AND OTHER VEGETATION BLOCKING VIEW OF BUSINESS OR SIGN. ✓
- 4 (a) In this subsection, "vegetation" means any tree, shrub, hedge, or other foliage. ✓
- 5 (b) Notwithstanding any other provision of this section, if any vegetation ✓
- 6 located in a highway right-of-way prevents the operator of a vehicle traveling on a ✓
- 7 highway at the posted speed limit from viewing for 6 uninterrupted seconds a ✓
- 8 business premises located adjacent to the highway right-of-way, a sign located on ✓
- 9 a business premises adjacent to the highway right-of-way that advertises the ✓
- 10 business to motorists on the adjacent highway, or any sign erected under this chapter ✓

No

1 or s. 84.30[✓] that is permitted to be located in or adjacent to the highway right-of-way,
 2 any person[✓] who maintains a majority ownership interest in the business adjacent to
 3 the highway right-of-way or in any business advertised on a sign identified in this
 4 paragraph[✓] may trim or remove any obstructing vegetation located in the highway
 5 right-of-way if all of the following requirements are met:

6 1. The person pays for the cost of trimming or removing the obstructing
 7 ⁽⁷⁾ vegetation, including the cost of clean[^] up and disposal, and for replacing any removed
 8 vegetation, including the cost of purchasing and planting the replacement
 9 vegetation.

10 2. If the person has removed vegetation, the person replaces the removed
 11 vegetation with comparable vegetation along the same highway right-of-way,
 12 provided that the person may not locate replacement vegetation in a manner that
 13 obstructs, or will obstruct in the foreseeable future, the view from the highway of
 14 another existing business or sign identified in this[✓] paragraph.

15 3. No state funds are expended for the trimming, removal, or replacement of
 16 ⁽¹⁶⁾ vegetation under this^{paragraph} ~~subsection~~.

17 4. With respect to a sign identified in this paragraph[✓], the owner of the land on
 18 which the sign is erected does not object to the trimming or removal of vegetation."[✓]

(END)

D-Note

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBb0806/1dn

ARG:.....

date

Jld

The attached draft provides for a significant change in highway maintenance practices and, in accordance with the directives of the request, provides a framework for addressing highway vegetation issues that may pose significant administrative difficulties. The request leaves many significant questions unaddressed. Is the requested statutory treatment intended to apply only to businesses located adjacent to the highway right-of-way or also to other businesses, and if the latter, how far ^{of a distance} ~~adjacent~~ from the highway may these businesses be located? The attached draft assumes the businesses must be located adjacent to the highway right-of-way. How much of the business, and which parts of the premises, must be obstructed by vegetation? At 55 mph, a business would have to be observable for almost 500 feet to ^{be} ~~be~~ observable for ^{six} ~~6~~ seconds. This 500-foot area would be subject to significant alterations to the highway landscape. Who makes the decision whether replacement vegetation is comparable to the prior vegetation, and is that decision made after the prior vegetation has been removed and might not be replaceable due to its size and age? The draft provides that trimming, removal, and replacement of vegetation must not result in expense to the department of transportation (DOT), but what about local municipalities ^{which} ~~which~~ maintain most of the vegetation along the state's highways? I strongly recommend that this draft be reviewed by DOT for its effect on DOT's highway maintenance administration. To the extent the attached draft contravenes the federal Highway Beautification Act, it may jeopardize federal highway aid.

Aaron R. Gary
Legislative Attorney
Phone: (608) 261-6926
E-mail: aaron.gary@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBb0806/1dn
ARC;jld:cmh

June 18, 2001

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SDC:.....Keckhaver - CN7025, Vegetation control along highway
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2 1. Page 878, line 23: after that line insert:

3 "SECTION 2340vg. 86.03 (5m) of the statutes is created to read:

4 86.03 (5m) TREES AND OTHER VEGETATION BLOCKING VIEW OF BUSINESS OR SIGN.

5 (a) In this subsection, "vegetation" means any tree, shrub, hedge, or other foliage.

6 (b) Notwithstanding any other provision of this section, if any vegetation
7 located in a highway right-of-way prevents the operator of a vehicle traveling on a
8 highway at the posted speed limit from viewing for 6 uninterrupted seconds a
9 business premises located adjacent to the highway right-of-way, a sign located on
10 a business premises adjacent to the highway right-of-way that advertises the

1 business to motorists on the adjacent highway, or any sign erected under this chapter
2 or s. 84.30 that is permitted to be located in or adjacent to the highway right-of-way,
3 any person who maintains a majority ownership interest in the business adjacent to
4 the highway right-of-way or in any business advertised on a sign identified in this
5 paragraph may trim or remove any obstructing vegetation located in the highway
6 right-of-way if all of the following requirements are met:

7 1. The person pays for the cost of trimming or removing the obstructing
8 vegetation, including the cost of cleanup and disposal, and for replacing any removed
9 vegetation, including the cost of purchasing and planting the replacement
10 vegetation.

11 2. If the person has removed vegetation, the person replaces the removed
12 vegetation with comparable vegetation along the same highway right-of-way,
13 provided that the person may not locate replacement vegetation in a manner that
14 obstructs, or will obstruct in the foreseeable future, the view from the highway of
15 another existing business or sign identified in this paragraph.

16 3. No state funds are expended for the trimming, removal, or replacement of
17 vegetation under this paragraph.

18 4. With respect to a sign identified in this paragraph, the owner of the land on
19 which the sign is erected does not object to the trimming or removal of vegetation.”.

20 (END)